

By: Ortega

H.B. No. 3088

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and other regulation of wrap lenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 156.002, Finance Code, is amended by adding Subdivision (16) to read as follows:

(16) "Wrap mortgage loan" has the meaning assigned by Section 180.002.

SECTION 2. Section 156.202(a-1), Finance Code, is amended to read as follows:

(a-1) The following entities are exempt from this chapter:

(1) a nonprofit organization:

(A) providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan; or

(B) that has designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan;

(2) a mortgage banker registered under Chapter 157;

(3) any owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans, none of which is a wrap mortgage loan, to purchasers

1 of the property for all or part of the purchase price of the
2 residential real estate against which the mortgage is secured; and

3 (4) an entity that is:

4 (A) a depository institution;

5 (B) a subsidiary of a depository institution that
6 is:

7 (i) owned and controlled by the depository
8 institution; and

9 (ii) regulated by a federal banking agency;

10 or

11 (C) an institution regulated by the Farm Credit
12 Administration.

13 SECTION 3. Section [157.002](#), Finance Code, is amended by
14 adding Subdivision (7) to read as follows:

15 (7) "Wrap mortgage loan" has the meaning assigned by
16 Section [180.002](#).

17 SECTION 4. Sections [157.0121](#)(b) and (c), Finance Code, are
18 amended to read as follows:

19 (b) The following individuals are exempt from this chapter:

20 (1) a registered mortgage loan originator when acting
21 for:

22 (A) a depository institution;

23 (B) a subsidiary of a depository institution that
24 is:

25 (i) owned and controlled by the depository
26 institution; and

27 (ii) regulated by a federal banking agency;

1 or

2 (C) an institution regulated by the Farm Credit
3 Administration;

4 (2) an individual who offers or negotiates the terms
5 of a residential mortgage loan with or on behalf of an immediate
6 family member of the individual;

7 (3) a licensed attorney who negotiates the terms of a
8 residential mortgage loan on behalf of a client as an ancillary
9 matter to the attorney's representation of the client, unless the
10 attorney:

11 (A) takes a residential mortgage loan
12 application; and

13 (B) offers or negotiates the terms of a
14 residential mortgage loan;

15 (4) an individual who offers or negotiates terms of a
16 residential mortgage loan secured by a dwelling that serves as the
17 individual's residence;

18 (5) any owner of residential real estate who in any
19 12-consecutive-month period makes no more than five residential
20 mortgage loans, none of which is a wrap mortgage loan, to purchasers
21 of the property for all or part of the purchase price of the
22 residential real estate against which the mortgage is secured; and

23 (6) an individual who is exempt as provided by Section
24 [180.003\(b\)](#).

25 (c) Employees of the following entities, when acting for the
26 benefit of those entities, are exempt from the licensing and other
27 requirements of this chapter applicable to residential mortgage

1 loan originators:

2 (1) a nonprofit organization:

3 (A) providing self-help housing that originates
4 zero interest residential mortgage loans for borrowers who have
5 provided part of the labor to construct the dwelling securing the
6 loan; or

7 (B) that has designation as a Section 501(c)(3)
8 organization by the Internal Revenue Service and originates
9 residential mortgage loans for borrowers who, through a self-help
10 program, have provided at least 200 labor hours or 65 percent of the
11 labor to construct the dwelling securing the loan;

12 (2) any owner of residential real estate who in any
13 12-consecutive-month period makes no more than five residential
14 mortgage loans, none of which is a wrap mortgage loan, to purchasers
15 of the property for all or part of the purchase price of the
16 residential real estate against which the mortgage is secured; and

17 (3) an entity that is:

18 (A) a depository institution;

19 (B) a subsidiary of a depository institution that
20 is:

21 (i) owned and controlled by the depository
22 institution; and

23 (ii) regulated by a federal banking agency;

24 or

25 (C) an institution regulated by the Farm Credit
26 Administration.

27 SECTION 5. Section 158.002, Finance Code, is amended by

1 adding Subdivisions (8) and (9) to read as follows:

2 (8) "Wrap lender" has the meaning assigned by Section
3 180.002.

4 (9) "Wrap mortgage loan" has the meaning assigned by
5 Section 180.002.

6 SECTION 6. Section 158.052, Finance Code, is amended by
7 amending Subsection (a) and adding Subsection (d) to read as
8 follows:

9 (a) This chapter does not require registration by:

10 (1) a federal or state depository institution, or a
11 subsidiary or affiliate of a federal or state depository
12 institution;

13 (2) a person registered under Chapter 157;

14 (3) a person licensed under Chapter 342 or regulated
15 under Chapter 343, if the person does not act as a residential
16 mortgage loan servicer servicing first-lien secured loans; or

17 (4) except as provided by Subsection (d), a person
18 making a residential mortgage loan with the person's own funds, or
19 to secure all or a portion of the purchase price of real property
20 sold by that person.

21 (d) This chapter applies to a wrap lender who services a
22 wrap mortgage loan.

23 SECTION 7. Section 180.002, Finance Code, is amended by
24 adding Subdivisions (24), (25), and (26) to read as follows:

25 (24) "Wrap borrower" means a person obligated to pay a
26 wrap mortgage loan.

27 (25) "Wrap lender" means a person who makes a wrap

1 mortgage loan.

2 (26) "Wrap mortgage loan" means a residential mortgage
3 loan:

4 (A) made to finance the purchase of residential
5 real estate that will continue to be subject to an unreleased lien
6 that:

7 (i) attached to the residential real estate
8 before the loan was made; and

9 (ii) secures a debt incurred by a person
10 other than the wrap borrower that was not paid off at the time the
11 loan was made; and

12 (B) obligating the wrap borrower to the wrap
13 lender for payment of a debt the principal amount of which includes:

14 (i) the outstanding balance of the debt
15 described by Paragraph (A)(ii); and

16 (ii) any remaining amount of the purchase
17 price financed by the wrap lender.

18 SECTION 8. Section 180.003(a), Finance Code, is amended to
19 read as follows:

20 (a) The following persons are exempt from this chapter:

21 (1) a registered mortgage loan originator when acting
22 for an entity described by Section 180.002(16)(A)(i), (ii), or
23 (iii);

24 (2) an individual who offers or negotiates terms of a
25 residential mortgage loan with or on behalf of an immediate family
26 member of the individual;

27 (3) a licensed attorney who negotiates the terms of a

1 residential mortgage loan on behalf of a client as an ancillary
2 matter to the attorney's representation of the client, unless the
3 attorney:

4 (A) takes a residential mortgage loan
5 application; and

6 (B) offers or negotiates the terms of a
7 residential mortgage loan;

8 (4) an individual who offers or negotiates terms of a
9 residential mortgage loan secured by a dwelling that serves as the
10 individual's residence;

11 (5) an owner of residential real estate who in any
12 12-consecutive-month period makes no more than five residential
13 mortgage loans, none of which is a wrap mortgage loan, to purchasers
14 of the property for all or part of the purchase price of the
15 residential real estate against which the mortgage is secured; and

16 (6) an owner of a dwelling who in any
17 12-consecutive-month period makes no more than five residential
18 mortgage loans, none of which is a wrap mortgage loan, to purchasers
19 of the property for all or part of the purchase price of the
20 dwelling against which the mortgage or security interest is
21 secured.

22 SECTION 9. This Act takes effect September 1, 2017.